

48A C.J.S. Judges § 177

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VI. Authority, Powers, and Duties

H. Particular Judges

1. Successor Judges

a. Authority to Make Decision on Evidence Heard by Predecessor

§ 177. Oral announcement of decision by predecessor

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The general rule that a successor judge lacks the authority to render a judgment on evidence heard by a prior judge who has failed to make findings of fact or conclusions of law has been applied where the prior judge has made an oral decision but has failed to render a signed written judgment.

The general rule that a successor judge lacks the authority to render a judgment on evidence heard by a prior judge who has failed to make findings of fact or conclusions of law has been applied where the prior judge has made an oral decision but has failed to render a signed written judgment.¹ The reasoning is that it is entirely possible that the original judge who heard the evidence could have changed his or her mind before formalizing the oral order and rendering a judgment; in any event, it would be speculative to assume that the original judge would have written substantially the same decision that would be fashioned by his or her successor.²

Other authority holds, however, that the entry of a judgment by a successor judge based upon oral findings of the predecessor is proper where there is nothing in the predecessor judge's oral pronouncements that render that judge's findings preliminary or tentative, and the successor judge's entry of judgment order merely formalizes the predecessor's rulings.³

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Footnotes

- 1 La.—*State v. Stills*, 642 So. 2d 316 (La. Ct. App. 4th Cir. 1994), writ denied, 648 So. 2d 1338 (La. 1995).
N.C.—*Matter of Whisnant*, 71 N.C. App. 439, 322 S.E.2d 434 (1984).
Okla.—*CitiFinancial Mortg. Co., Inc. v. Carey*, 2012 OK CIV APP 42, 275 P.3d 159 (Div. 1 2012).
Wash.—*DGHI, Enterprises v. Pacific Cities, Inc.*, 137 Wash. 2d 933, 977 P.2d 1231 (1999).
- 2 Fla.—*Anders v. Anders*, 376 So. 2d 439 (Fla. 1st DCA 1979).
- 3 Ill.—*In re Marriage of Zander*, 273 Ill. App. 3d 669, 210 Ill. Dec. 535, 653 N.E.2d 440 (4th Dist. 1995).

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